

December 22, 2016

Summary of December 15-16, 2016, Board Meeting

This is a summary of the December 15-16, 2016, meeting of the Iowa Board of Medicine.

Cases Reviewed: The Board reviewed 115 cases.

New Investigative Cases: The Board reviewed 56 new investigative cases.

Combined Statement of Charges and Settlement Agreements: If the Board determines that probable cause exists for formal disciplinary action against a licensee, the Board and the licensee may enter into a combined Statement of Charges and Settlement Agreement to resolve the matter. The combined Statement of Charges and Settlement Agreements contain the Board's allegations and the disciplinary sanctions.

The Board approved 1 combined Statements of Charges and Settlement Agreement.

1. An Iowa-licensed physician who practices internal medicine in Hazelhurst, Wisconsin, entered into a combined Statement of Charges and Settlement Agreement with the Board on December 16, 2016. On March 18, 2016, the physician was disciplined by the Wisconsin Medical Examining Board (Wisconsin Board). The Wisconsin Board alleged that the physician engaged in unprofessional conduct by engaging in significant disruptive behavior or interaction with medical staff that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered, when he refused to provide medical care to a patient who was in jail in September 2014. The Wisconsin Board issued the physician a Reprimand and ordered him to pay costs in the amount of \$200. Under the terms of the December 16, 2016, combined Statement of Charges and Settlement Agreement, the Iowa Board issued the physician a Citation and Warning for being disciplined by the Wisconsin Board.

Settlement Agreements: After the Board has determined that probable cause exists to take formal disciplinary action and formal disciplinary charges have been filed, the Board and the licensee may enter into a Settlement Agreement to resolve the pending disciplinary charges rather than hold a formal disciplinary hearing.

The Board approved 2 Settlement Agreements.

1. An Iowa-licensed physician who practices internal medicine in Waterloo, Iowa, entered into a Settlement Agreement with the Board on December 16, 2016. On April 8, 2016, the Board filed formal disciplinary charges against the physician alleging he violated the laws and rules governing the practice of medicine when he failed to provide appropriate pain management to multiple patients in Waterloo between 2008 and 2014. The Board also alleged that the physician: failed to provide and/or document appropriate evaluation and treatment to a patient who was diagnosed with chronic myelomonocytic leukemia; failed to provide and/or document appropriate evaluation and treatment of a patient who presented with a history of a fever up to 104 degrees for five days; failed to provide and/or document appropriate evaluation and treatment to two patients with chronic alcoholism who required hospitalization or rehabilitation and received opioids, zolpidem and benzodiazepines; failed to perform and/or document appropriate evaluations, decisions for imaging studies and follow-up arrangements for patients with chronic health conditions and inappropriately included derogatory and unprofessional criticisms of other physicians in his notes. Under the terms of the December 16, 2016, Settlement Agreement, the Board issued the physician a Citation and Warning and ordered him to pay a \$5,000 civil penalty. The Board also prohibited him from prescribing, administering or dispensing controlled substances for the treatment of chronic pain and ordered him to complete a Board-approved medical record keeping course. The Board also placed him on probation for a period of five years subject to Board monitoring including controlled substance prescribing audits.
2. An Iowa-licensed physician who formerly practiced neurosurgery in Cedar Rapids, Iowa, entered into a Settlement Agreement with the Board on December 16, 2016. On May 15, 2015, the Board filed formal disciplinary charges against the physician alleging that he violated the laws and rules governing the practice of medicine in Iowa when he failed to provide appropriate neurosurgical care to numerous patients in Cedar Rapids, Iowa. The Board alleged that the physician inappropriately utilized epidural blood patches to manage postoperative spinal fluid leaks discovered following spinal surgery, that his patient's experienced excessive infections following neurostimulator placement and he failed to appropriately manage the infections, and that he failed to establish appropriate coverage arrangements for his patients in his absence putting his patients at risk of harm. The Board also alleged that the physician maintained pre-signed prescriptions which were intended to be completed and issued at a later time. During the pendency of this matter, it was discovered overpayments were made to the physician's practice for medical services. The physician has remitted funds to satisfy the overpayments discovered to the various payors in the amount of \$11,579.83. In May 2016, the physician discontinued his surgical practice due to his health condition of Parkinsonism, which impacts the steadiness of his hands during surgery. The physician continues to provide non-surgical medical services including, but not limited to, medical consultations, medical record reviews, and independent medical examinations. Under the terms of the December 16, 2016 Settlement Agreement, the Board issued the physician a Citation and Warning. The Board also ordered him to pay a \$5,000 civil penalty and complete a Board-approved professional ethics program. Finally, the physician agreed that he will not engage in the practice of surgery under his Iowa medical license. His license is otherwise without restriction.

Consent Agreements: If the Board receives information which indicates that a physician has been disciplined by another licensing authority or has violated the laws and rules governing the practice of medicine in another jurisdiction, the Board may require a license applicant to enter into a Consent Agreement in order to obtain an Iowa medical license.

The Board approved 1 Consent Agreement.

1. An Iowa-licensed physician who currently practices radiologic oncology in Poplar Grove, Illinois, and intends to practice in Iowa City, Iowa, entered into a Consent Agreement with the Board on December 16, 2016. On October 23, 2015, the physician entered into a Public Consent Order with the Illinois Department of Financial and Professional Regulation (Illinois Board). The Illinois Board concluded that the physician improperly performed brachytherapy on a patient; implanting seventy-one radioactive seeds, only two of which were properly placed. The misplacement led to under-dosing the proper area and required surgery to remove the radioactive seeds. The Illinois Board issued the physician a Reprimand and he agreed to pay a \$5,000 fine. Under the terms of the December 16, 2016, Consent Agreement, the Iowa Board granted the physician a permanent Iowa medical license and issued him a Citation and Warning for being disciplined by the Illinois Board for failure to provide appropriate medical care to a patient.

Termination Orders: The Board issues Termination Orders when a physician successfully completes requirements of a disciplinary order including the terms of probation.

The Board approved 1 Termination Order.

1. An Iowa-licensed physician who formerly practiced anesthesiology and pain medicine in Council Bluffs, Iowa, and currently practices in Clinton, Iowa, had the terms of his probation terminated by the Board on December 16, 2016. On December 11, 2011, the Board filed a Statement of Charges and Emergency Adjudicative Order against The physician and immediately suspended his Iowa medical license. The Board filed an Amended Statement of Charges on January 9, 2012. The Board alleged that the physician engaged in sexual misconduct, unethical or unprofessional conduct and/or professional incompetency in his treatment of five female patients. A hearing was held on January 12-13, 2012, and on March 29, 2012, the Board issued a Findings of Fact, Conclusions of Law, Decision and Order. The Board concluded that the allegations of sexual misconduct were not supported by a preponderance of evidence at hearing. However, the Board concluded that the physician violated the standard of care by seeing patients under sedation without any staff member present creating a climate in which his patients had no way of knowing what occurred during their treatment; failing to obtain proper written informed consent from patients; failing to monitor and document vital signs during procedures; and allowing two patients to drive home after their procedures, risking their safety and the safety of others on the road. The Board suspended the physician's Iowa medical license for a minimum of one year from the date of the original suspension and ordered him to pay a \$10,000 civil penalty and complete a Board-approved professional boundaries program and medical record keeping course. The physician paid the \$10,000 civil penalty and completed the Board-approved professional boundaries program and medical record keeping course. On January 11, 2013, the Board reinstated the physician's Iowa medical license. The Board ordered the physician to share a copy of the Reinstatement Order with any hospital, clinic, office, or other health care facility where he practices medicine and submit a written statement to the Board from each which indicates that they have read and fully understand the terms and conditions of the order. The Board also established the following practice requirements: a Board-approved group practice setting; a Board-approved chaperone for all female patients except when he is practicing in a Board-approved hospital setting; treatment only during regular clinic hours; appropriately trained staff; appropriate levels of sedation; appropriate monitoring during procedures; appropriate transportation following

procedures; appropriate written informed consent; appropriate medical records; and appropriate fees for services. The Board also placed the physician on probation for a period of five years subject to the following terms and conditions: a Board monitoring program; compliance with the recommendations of the Board-approved professional boundaries program; a Board-approved practice monitoring plan; a worksite monitor; quarterly reports; Board appearances; and payment of a \$100 quarterly monitoring fee. On December 16, 2016, the Board terminated the terms of the physician's probation. However, the physician must share a copy of this order with any new hospital, clinic, office, or other health care facility prior to practicing medicine at the facility in the future and submit a written statement to the Board from each which indicates that they have read and fully understand the terms and conditions of the order. Additionally, the following practice requirements remain in effect: a Board-approved group practice setting; a Board-approved chaperone for all female patients except when he is practicing in a Board-approved hospital setting; treatment only during regular clinic hours; appropriately trained staff; appropriate levels of sedation; appropriate monitoring during procedures; appropriate transportation following procedures; appropriate written informed consent; appropriate medical records; and appropriate fees for services.

Board Appearances: The Board may ask a licensee to appear before the Board to discuss concerns when the Board determines that a face-to-face meeting will assist the Board during the investigative process.

The Board met with 3 physicians to discuss the following concerns:

1. Concerns that a physician failed to provide appropriate supervision to a physician assistant and a patient under the care of the physician assistant did not receive appropriate anticoagulation therapy management.
2. Concerns that a physician did not perform an appropriate evaluation of an elderly patient and did not provide appropriate ventilation management to the patient.
3. Concerns that a physician inappropriately accessed medical records to obtain the address of a patient and sent threatening or harassing text messages to a minor following a private business transaction.

Confidential Letters of Warning or Education: When the Board determines that probable cause does not exist to take formal disciplinary action against a licensee the Board may send a confidential, non-disciplinary, letter to the licensee expressing concerns and requesting that the licensee take corrective action, including further education.

The Board voted to issue 15 confidential Letters of Warning or Education due to the following areas of concern:

1. Concerns about a physician's evaluation, testing and treatment of a patient who had a palpable breast mass.
2. Concerns about a physician's evaluation, monitoring and treatment of a patient whose ventilation was deteriorating.
3. Concerns about a physician's surgical treatment of a patient who underwent coronary bypass surgery and experienced serious postoperative complications.
4. Concerns about a physician's surgical treatment of a patient who underwent spinal surgery and experienced serious postoperative complications.
5. Concerns about a physician's pain management and prescribing practices
6. Concerns about a physician's surgical treatment of a patient who colon resection surgery and experienced serious postoperative complications.

7. Concerns that a physician engaged in unprofessional conduct in his interactions with a family member.
8. Concerns that a physician engaged in unprofessional conduct in the practice of medicine and concerns about the physician's pain management and prescribing practices.
9. Concerns about a physician's management of a patient who was receiving dialysis treatment.
10. Concerns about a physician's evaluation, testing and treatment of a patient who was diagnosed with left inferior orbit lymphoma.
11. Concerns about a physician's evaluation, testing and treatment of a patient who suffered a stroke.
12. Concerns about a physician's evaluation, testing and treatment of a patient who suffered a stroke.
13. Concerns about a physician's evaluation, testing and treatment of a patient who experienced an intestinal obstruction.
14. Concerns about a physician's evaluation, testing and treatment of a patient who experienced an intestinal obstruction.
15. Concerns that a physician failed to complete a death certificate in a timely manner and failed to respond to the Board investigation in a timely manner.

Monitoring Committee: The Monitoring Committee monitors licensees who are subject to a disciplinary order and require monitoring.

The Monitoring Committee reviewed 12 physicians who are being monitored by the Board and held 5 physician appearances.

Screening Committee: The Screening Committee reviews cases that are lower priority to determine whether investigation is warranted.

The Screening Committee reviewed 22 cases.

Licensure Committee: The Licensure Committee reviews applications for licensure, renewal and reinstatement and licensure policies and issues. Most applications are approved by Board staff, but potentially problematic applications are reviewed by the committee, which determines whether a license should be issued, renewed or reinstated.

Action:

- The Licensure Committee reviewed five license applications. The Committee reinstated one permanent license; approved one consent agreement which publicly recognizes an applicant's discipline in another state; and three applications were left open to obtain further information or allow the applicant to withdraw.
- The Licensure Committee approved seven letters of warning for applicants who failed to provide truthful, accurate or complete information on their applications and affirmed two letters of warning for applicants who requested reconsideration.

In other action the Board:

- Reappointed Jeffrey S. Kerber, Ph.D., to the Iowa Physician Health Committee. His second, three-year term on the committee will begin January 1, 2017. The committee oversees the Iowa Physician Health Program, a confidential monitoring program which supports physicians who self-report mental health issues, physical disabilities or substance use disorders.
- Received a report of from the Iowa Physician Health Committee concerning three physicians in the Iowa Physician Health Program who were not in compliance with their contracts to participate in the program. The Board accepted the committee's recommendations that two of the physicians be allowed to remain in the program. The third physician was released from the program. The Board will review this case to determine if disciplinary charges should be filed or other appropriate action should be taken. On December 1, 2016, there were 52 physicians under contract in the program and eight (8) potential participants in the review process.
- Received reports from the Iowa Attorney General's Office on three (3) disciplinary cases under judicial review.
- Reviewed two (2) mandatory reports filed with the Governor's Office and the Legislature concerning waiver of administrative rules and the application of a new law that is aimed to ease the licensure process for applicants who are active military personnel or are veterans.

In addition, Chair Diane Clark appointed Board member Nicole Gilg Gachiani, M.D., to serve on a work group on the state's electronic death registration system, which is administered by the Iowa Department of Public Health's Bureau of Health Statistics.

A press release describing public disciplinary action taken by the Board was distributed and posted on the Board's Website on December 22, 2016. If you have any questions about this summary or the press release, please contact Kent M. Nebel, J.D., Legal Director, at (515) 281-7088 or kent.nebel@iowa.gov.